

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

The Recovery Project
Petitioner

File No. 21-1767

v

Auto Club Group Insurance Company
Respondent

Issued and entered
this 31st day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On November 29, 2021, The Recovery Project (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto Club Group Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on August 27, 2021 and October 28, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 10, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 10, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 30, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 19, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on July 13, 20 and 27, 2021 and August 3, 10, and 17, 2021. The Current Procedural Terminology (CPT) codes at issue include 97110 and 97112, which are described as therapeutic exercise and neuromuscular reeducation. In its *Explanation of Benefits* letter, the Respondent referenced the American College of Occupational and Environmental Medicine (ACOEM) guidelines for chronic severe or moderately severe traumatic brain injury (TBI) patients with functional physical deficits. The Respondent stated that the rendered treatment exceeded the ACOEM guideline recommendations for all regions documented.

With its appeal request, the Petitioner submitted supporting documentation which identified the injured person's diagnoses as gait and mobility abnormalities, lack of coordination, generalized muscle weakness, incomplete quadriplegia at C5-C7, diffuse TBI with loss of consciousness of an unspecified duration, and involvement in a motor vehicle accident in May 1990. The Petitioner argued that the ACOEM guidelines do not apply to the injured person as the spinal cord injury and TBI is not considered a "common health disorder" and that the guidelines "do not consider the need of skilled service to optimize function" or to "slow further deterioration."

The Petitioner's request for an appeal stated:

[The injured person] received skilled [physical therapy (PT)]...to facilitate neuroplasticity an optimize functional recovery and preferent further deterioration of function. Rehabilitative therapy is required for [the injured person's] diagnosis and stage of recovery to continue to facilitate her potential improvement and response to therapy; maximum improvement is yet to be attained...The skilled PT provided cannot be safely and effectively carried out by the beneficiary personally or with the assistance of non-therapists including unskilled caregivers...

In its reply, the Respondent reaffirmed its position and referenced ACOEM guidelines for TBI disorder for subacute, chronic severe or moderately severe individuals with functional physical deficits. The Respondent also relied on ODG guidelines for physical and occupational therapy for head conditions and noted that the records documented "improved trunk strength and the ability to transfer with stand-by assist."

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a physician who is board-certified in physical medicine and rehabilitation and fellowship-trained in spine, sports and musculoskeletal rehabilitation. In its report, the IRO reviewer referenced R 500.61(i), which defines “medically accepted standards” as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on the ACOEM guidelines for TBI and ODG by MCG guidelines for head conditions for its recommendation.

Based on the submitted documentation, the IRO reviewer explained that the injured person reported trunk and upper extremity strength and transfer improvements in July of 2021 and noted that “she continued to make gains overall with sitting balance, strength, and improved functional mobility.” The IRO reviewer noted that the injured person reported continued improvements in balance as well as trunk and shoulder strength and “no longer had issues with shoulder pain.” The IRO reviewer noted that the injured person continued to show functional improvements from treatment and noted that the Petitioner recommended ongoing therapy was needed “to prevent further deterioration of strength, joint contractures, cardiovascular health, and pain management or functional decline.”

The IRO reviewer explained that ACOEM guidelines state that “home and community-based rehabilitation is selectively recommended for traumatic brain injury patients and those that have sufficient residual symptoms and signs to necessitate ongoing treatment.” In addition, the IRO reviewer explained that ODG recommends physical therapy at a frequency and duration of 6 visits over 6 weeks with additional treatment for recurrences and flareups every 4-6 months “to address significant functional limitations and when positive response to repeat therapy is likely.”

The IRO reviewer noted that the injured person developed secondary medical conditions such as quadriplegia, lower extremity spasticity, and cognitive deficits. However, the IRO reviewer stated that the injured person continued to make functional gains, had received greater than 480 sessions of therapy, and “should be well versed in a home exercise program given the previously completed physical therapy.”

More specifically, the IRO reviewer stated:

The injured person has caregivers in the home that could assist with her home exercises if needed. The guidelines recommend transition to a home exercise program with repeat sessions of physical therapy every 4-6 months to address significant functional limitations. The documentation did not identify that the injured person had a trial of a home exercise program which resulted in significant decline in status to support the need for additional physical therapy. As such, the physical

therapy treatments [for the dates of service at issue] were not medically necessary.

The IRO reviewer recommended that the Director uphold the Respondent's determination that the physical therapy treatments provided to the injured person on July 13, 20 and 27, 2021 and August 3, 10, and 17, 2021 were not medically necessary and were overutilized in frequency or duration in accordance with medically accepted standards, as defined by R 500.61(i).


IV. ORDER

The Director upholds the Respondent's determinations dated August 27, 2021 and October 28, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X 

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford